

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

HOWARD SILVER, X

Plaintiff:

-against-

RHONA SILVER, HUNTINGTON TOWN HOUSE,
HUNTINGTON TOWN HOUSE INC., NEW
HUNTINGTON TOWN HOUSE, HUNTINGTON
REALTY LLC, SILVER HUNTINGTON
TOWNHOUSE LLC, SILVER HUNTINGTON
REALTY LLC, SILVER HUNTINGTON
ENTERPRISES, LLC, RHOBAR DEVELOPMENT
ASSOCIATES, LLC, RHOBAR, INC., RHONA
SILVER ENTERPRISES-ALF LLC, RHONA SILVER
ENTERPRISES-EXPO, LLC, RHONA SILVER
ENTERPRISES-HOTEL, LLC, BARRY NEWMAN,
and ACKERLY ASSOCIATES, LLC,

Defendants.

X

Index No.: 07-05097

AMENDED SUMMONS

Plaintiff designates Suffolk
County as the place of trial

Basis of Venue designated:
Location of the property
which is the subject of action

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiffs' attorney an answer to the verified complaint in this action within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In the case of your failure to answer, judgment will be taken against you by default for the relief demanded in the verified complaint. The basis of venue is plaintiffs' place of business and the location of the premises involved.

Dated: New York, New York
February 8, 2007

Jerry Dobin
David A. Kaminsky & Associates, P.C.
By: Jerry Dobin, Esq.
Attorney for Plaintiff
325 Broadway, Suite 504
New York, NY 10007
(212) 571-1227

TO:

RHONA SILVER
124 East Jericho Turnpike
Huntington Station, NY 11746

HUNTINGTON TOWN HOUSE
124 East Jericho Turnpike
Huntington Station, NY 11746

HUNTINGTON TOWN HOUSE INC.
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ACKERLY ASSOCIATES, LLC
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Huntington Station, NY 11746

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

HOWARD SILVER,

X

Index No.: 07-05097

Plaintiff,

AMENDED VERIFIED
COMPLAINT

-against-

RHONA SILVER, HUNTINGTON TOWN HOUSE,
HUNTINGTON TOWN HOUSE INC., NEW
HUNTINGTON TOWN HOUSE, HUNTINGTON
REALTY LLC, SILVER HUNTINGTON
TOWNHOUSE LLC, SILVER HUNTINGTON
REALTY LLC, SILVER HUNTINGTON
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ENTERPRISES-EXPO, LLC, RHONA SILVER
ENTERPRISES-HOTEL, LLC, BARRY NEWMAN,
and ACKERLY ASSOCIATES, LLC,

Defendants.

X

The Plaintiff, HOWARD SILVER, by his attorneys, David A. Kaminsky & Associates, P.C., as and for his Verified Complaint, alleges that:

PARTIES

1. Plaintiff HOWARD SILVER is an individual residing at 500 East 77th Street, Apt. 731, New York, New York.
2. Defendants RHONA SILVER and BARRY NEWMAN are individuals, each with a business address of 124 East Jericho Turnpike, Huntington Station, New York.
3. That upon information and belief Defendants HUNTINGTON TOWN HOUSE, HUNTINGTON TOWN HOUSE INC., NEW HUNTINGTON TOWN HOUSE, HUNTINGTON REALTY LLC, SILVER HUNTINGTON TOWNHOUSE LLC, SILVER HUNTINGTON REALTY LLC, SILVER HUNTINGTON ENTERPRISES, LLC, RHOBAR DEVELOPMENT ASSOCIATES, LLC, RHOBAR, INC., RHONA SILVER ENTERPRISES-ALF LLC, RHONA

SILVER ENTERPRISES-EXPO, LLC, RHONA SILVER ENTERPRISES-HOTEL, LLC, and ACKERLY ASSOCIATES, LLC, are each entities owned or partially owned by Defendant RHONA SILVER and/or are owners or partial owners of business interests, realty or other assets generally located at 124 East Jericho Turnpike, Huntington Station, New York.

FACTS

4. Defendant RHONA SILVER has for the last several years co-owned and co-managed various businesses and properties generally located at 124 East Jericho Turnpike, Huntington Station, New York, including but not limited to the property known as the "Huntington Townhouse", respecting which Plaintiff HOWARD SILVER ("Plaintiff") owns a 50% ownership.
5. On April 30, 1997, Defendant Rhona prepared and signed a letter evidencing that she held "a 50% interest in the profits and capital of Silver Huntington Enterprises, LLC and Silver Huntington Realty, LLC for the benefit of [her] brother Howard Silver residing at 500 East 77th Street, New York, N.Y." (annexed hereto as Exhibit A).

6. To date, Defendant Rhona Silver has failed to provide the Plaintiff with his 50% interest in the aforementioned businesses.

AS AND FOR A FIRST CAUSE OF ACTION: ACCOUNTING

7. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 5 with the same force and effect as if fully stated hereinafter.
8. Since 1997, Defendants have received amounts from Plaintiff for the purposes of purchasing and operating various businesses and properties, including but not limited to the property located at 124 East Jericho Turnpike, Huntington Station, New York and the businesses located therein, 50% of which is owned by the Plaintiff.

9. Upon information and belief, Defendants have diverted and converted some of the aforementioned amounts from the purposes intended.

10. Defendant Rhona Silver has refused to communicate with Plaintiff respecting the operation of the business and properties, as well as the aforementioned diversion and conversion.

11. The amounts diverted and converted can only be ascertained through an accounting, for which relief Plaintiff has no adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION: CONSTRUCTIVE TRUST

12. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 11 with the same force and effect as if fully stated hereinafter.

13. At all times herein mentioned, Plaintiff, who is the brother of Defendant Rhona Silver, had a trusting and confidential relationship with Defendant Rhona Silver.

14. Upon the purchase of the above-mentioned businesses and properties in 1997, Defendant Rhona Silver promised that Plaintiff had a 50% interest in such businesses and properties.

15. Since the purchase of the businesses and properties, Defendant Rhona Silver continuously assured Plaintiff that Plaintiff had a 50% interest in the businesses and properties.

16. In reliance upon such promises and assurances, Plaintiff continued to contribute significant sums to the maintenance of said businesses and properties without demand for repayment, and Plaintiff worked on behalf of said businesses and properties for four years without demand for or receipt of payment.

17. Because there was a confidential relationship between the parties, that promises were made by Defendants that were unfulfilled, that there was a transfer of monies from Plaintiff and work by Plaintiff based on Plaintiff's reliance on such promises, and that there was a breach of said promises with unjust enrichment to Defendants, a constructive trust should be set up and created with reference to all of the businesses and properties co-owned by Plaintiff and Defendants.

18. Plaintiff has no adequate remedy at law.

AS AND FOR A THIRD CAUSE OF ACTION: JOINT VENTURE

19. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 18 with the same force and effect as if fully stated hereinafter.

20. Plaintiff and Defendants agreed to pool their resources, monies and labor into purchasing and developing the aforementioned businesses and properties, to jointly run said businesses and properties, and to share in the profits of said businesses and properties on a fifty-fifty basis.

21. Pursuant to CPLR 3001, Plaintiff is seeking a Declaratory Judgment that a joint venture has existed and currently exists between Plaintiff and Defendants, and that such joint venture partnership is an equal partnership, with Plaintiff owning 50% of such joint venture partnership.

22. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff demands as follows:

(a) that there be an accounting of all sums, assets and properties advanced by Plaintiff to Defendants and/or all sums, assets and properties co-owned by Plaintiff and Defendants;

(b) a constructive trust should be set up and created with reference to all of the businesses and properties co-owned by Plaintiff and Defendants;

(c) a Declaratory Judgment under CPLR 3001 that a joint venture has existed and currently exists between Plaintiff and Defendants, and that such joint venture partnership is an equal partnership, with Plaintiff owning 50% of such joint venture partnership; and

(d) such other and further relief as may be just and proper.

Dated: New York, New York
February 8, 2007

Yours etc.,

Jerry Dobin

DAVID A. KAMINSKY & ASSOCIATES, P.C.
By: Jerry Dobin, Esq.
Attorneys for Plaintiff
325 Broadway, Suite 504
New York, New York 10007
(212) 571-1227

TO:

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ACKERLY ASSOCIATES, LLC
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VERIFICATION

State of New York)
) s.s.
County of New York)

HOWARD SILVER, being duly sworn, deposes and says that:

I am the Plaintiff in the within action; and I have read the foregoing Amended Verified Complaint and know the contents thereof; and the same is true to my own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.



HOWARD SILVER

Subscribed and sworn to before me
this 8th day of February, 2007


Notary Public

MICHAEL P. SHERIDAN
Notary Public, State of New York
No. 02546131715
Qualified in New York County
Commission Expires 08/25/2008

April 30 1997

This is to acknowledge that

The undersigned holds a 50%

interest in the profits and capital

of Silver Huntington Enterprises, LLC.

and Silver Huntington Realty LLC.

for the benefit of my brother

Howard Silver residing at

500 E 77th Street, New York NY.

Pls. file

SUPERIOR COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

HOWARD SILVER,

X

Index No.: 07-05097

Plaintiff,
-against-

AMENDED NOTICE OF
PENDENCY.

RHONA SILVER, HUNTINGTON TOWN HOUSE,
HUNTINGTON TOWN HOUSE INC., NEW
HUNTINGTON TOWN HOUSE, HUNTINGTON
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ENTERPRISES-EXPO, LLC, RHONA SILVER
ENTERPRISES-HOTEL, LLC, BARRY NEWMAN,
and ACKERLY ASSOCIATES, LLC,

Defendants.

X

NOTICE IS HEREBY GIVEN that a action has been commenced and is now pending in this Court upon the summons and complaint of the above-named Plaintiff, HOWARD SILVER, against the above named Defendants, RHONA SILVER, HUNTINGTON TOWN HOUSE, HUNTINGTON TOWN HOUSE INC., NEW HUNTINGTON TOWN HOUSE, HUNTINGTON REALTY LLC, SILVER HUNTINGTON TOWNHOUSE LLC, SILVER HUNTINGTON REALTY LLC, SILVER HUNTINGTON ENTERPRISES, LLC, RHOBAR DEVELOPMENT ASSOCIATES, LLC, RHOBAR, INC., RHONA SILVER ENTERPRISES-ALF LLC, RHONA SILVER ENTERPRISES-EXPO, LLC, RHONA SILVER ENTERPRISES-HOTEL, LLC, BARRY NEWMAN and ACKERLY ASSOCIATES, LLC for an accounting of all sums, assets and properties advanced by Plaintiff to Defendants and/or all sums, assets and properties co-owned by Plaintiff and Defendants; a constructive trust to be created with reference to all of the businesses and properties co-owned by Plaintiff and Defendants; and a declaratory judgment under CPLR 3001 that a joint venture has existed and currently exists between Plaintiff and Defendants and that such joint venture partnership is an equal partnership, with Plaintiff owning 50% of such joint venture partnership; and that the real property in the County of Suffolk affected thereby is particularly described as all those certain plots, pieces or parcels of land, with buildings and improvements thereon erected, at 124 East Jericho Turnpike Huntington Station, New York 11746, District: 0400 Section 198.00 Block: 01.00 Lots: 062.000 063.000, 064.000, 065.000, 066.000, and District: 0400 Section 198.00 Block: 03.00 Lots:

001.000, 002.000, 004.001, 005.000, 006.000, 007.000, 008.000, 010.000, 014.000; and described on SCHEDULE "A" annexed hereto.

Dated: New York, New York
February 8, 2007

Jerry Dobin
David A. Kaminsky & Associates, P.C.
By: Jerry Dobin, Esq.
Attorney for Plaintiff
325 Broadway, Suite 504
New York, NY 10007
(212) 571-1227

TO THE CLERK OF THE COUNTY OF SUFFOLK:

You are hereby directed to index the foregoing Notice of Pendency to the name of Defendants: RHONA SILVER, HUNTINGTON TOWN HOUSE, HUNTINGTON TOWN HOUSE INC., NEW HUNTINGTON TOWN HOUSE, HUNTINGTON REALTY LLC, SILVER HUNTINGTON TOWNHOUSE LLC, SILVER HUNTINGTON REALTY LLC, SILVER HUNTINGTON ENTERPRISES, LLC, RHOBAR DEVELOPMENT ASSOCIATES, LLC, RHOBAR, INC., RHONA SILVER ENTERPRISES-ALF LLC, RHONA SILVER ENTERPRISES-EXPO, LLC, RHONA SILVER ENTERPRISES-HOTEL, LLC, BARRY NEWMAN and ACKERLY ASSOCIATES, LLC.

Dated: New York, New York
February 8, 2007

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David A. Kaminsky & Associates, P.C.
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SCHEDULE "A"

Title No: CLC 202875

SCHEDULE A

FOR REPORTING PURPOSES ONLY

DISTRICT: 0400 SECTION: 198.00 BLOCK: 01.00 LOTS: 062.000, 063.000, 064.000, 065.000 and 066.000
on the Tax Map of Suffolk County

ALL that certain plot, piece or parcel of land, situate, lying and being at Huntington Station, in the Town of Huntington, County of Suffolk, and State of New York, being bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Jericho Turnpike with the westerly side of Ackerly Court;

RUNNING THENCE South 10 degrees 33 minutes 20 seconds West along the westerly side of Ackerly Court, 384.88 feet;

THENCE North 79 degrees 26 minutes 40 seconds West, 220.01 feet;

THENCE North 10 degrees 33 minutes 20 seconds East, 83.53 feet;

THENCE North 79 degrees 26 minutes 40 seconds West, 100.00 feet;

THENCE North 10 degrees 33 minutes 20 seconds East, 304.62 feet to the southerly side of Jericho Turnpike;

THENCE South 78 degrees 51 minutes 20 seconds East along the southerly side of Jericho Turnpike, 320.02 feet to the corner, the point or place of BEGINNING.

DISTRICT: 0400 SECTION: 198.00 BLOCK: 03.00 LOT: 001.000, 002.000, 004.001, 005.000, 006.000,
007.000, 008.000 and 010.000
on the Tax Map of Suffolk County

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Huntington, County of Suffolk, and State of New York, being bounded and described as follows:

BEGINNING at a point at the intersection of the southerly side of Jericho Turnpike (S.R. 25) and the easterly side of Ackerly Court;

RUNNING THENCE easterly from said point of beginning along the southerly side of Jericho Turnpike (S.R. 25), South 78 degrees 51 minutes 20 seconds East, 1,099.01 feet and along an arc of a curve to the left having a radius of 1,087.00 feet and a length of 213.21 feet to land now or formerly of Dementer LLC;

THENCE southerly, westerly and southerly along said land of Dementer LLC and along land now or formerly of the Town of Huntington the following six (6) courses and distances:

1. South 05 degrees 42 minutes 50 seconds East, 113.73 feet;
2. South 10 degrees 14 minutes 10 seconds West, 90.32 feet;
3. North 77 degrees 27 minutes 10 seconds West, 90.32 feet;
4. North 89 degrees 23 minutes 30 seconds West, 2.58 feet;
5. South 01 degree 36 minutes 40 seconds West, 50.20 feet;
6. South 00 degrees 05 minutes 00 seconds East, 89.80 feet to land now or formerly of Hargreaves;

THENCE westerly and southerly along said land of Hargreaves, as well as lands now or formerly of Bahnenberg and Geiger, North 89 degrees 23 minutes 30 seconds West, 389.39 feet and South 00 degrees 35 minutes 30 seconds West, 60.48 feet to the "Map of Parkside Hills, Section No. 2";

THENCE generally westerly along said "Map of Parkside Hills, Section No. 3", as well as along the "Map of Parkside Hills, Section No. 2" the following four (4) courses and distances:

1. South 73 degrees 07 minutes 30 seconds West, 359.36 feet;
2. North 87 degrees 43 minutes 45 seconds West, 127.97 feet;
3. North 65 degrees 47 minutes 20 seconds West, 162.96 feet;
4. North 86 degrees 33 minutes 40 seconds West, 200.26 feet to the easterly side of Iceland Drive;

THENCE generally northerly along the easterly side of Iceland Drive and along the easterly side of Ackerly Court the following four (4) courses and distances:

1. North 04 degrees 10 minutes 50 seconds East, 151.88 feet;
2. North 26 degrees 36 minutes 40 seconds West, 112.00 feet;
3. North 79 degrees 26 minutes 40 seconds West, 14.69 feet;
4. North 10 degrees 33 minutes 20 seconds East, 384.40 feet to the intersection of the southerly side of Jericho Turnpike (S.R. 25) and the easterly side of Ackerly Court and the point or place of BEGINNING.

DISTRICT: 0400 SECTION: 198.00 BLOCK: 03.00 LOT: 014.000
on the Tax Map of Suffolk County

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Huntington, County of Suffolk, and State of New York, being bounded and described as follows:

BEGINNING at a point at the northwesterly corner of the herein described parcel on the easterly side of Iceland Drive, 399.09 feet south of the southerly side of Jericho Turnpike (S.R. 25), as measured along the easterly side of Ackerly Court;

RUNNING THENCE easterly from said point of beginning along the southerly side of land of Rhobar, Inc. (other lands of the Huntington Town House), the following five (5) courses and distances:

1. South 87 degrees 22 minutes 49 seconds East, 177.84 feet
2. South 85 degrees 54 minutes 10 seconds East, 196.14 feet;
3. North 87 degrees 55 minutes 40 seconds East, 100.18 feet;
4. South 87 degrees 02 minutes 40 seconds East, 201.30 feet;
5. South 89 degrees 23 minutes 30 seconds East, 187.05 feet to a point;

THENCE southerly partially along said land of Rhobar, Inc. and also along land now or formerly of Geiger, South 00 degrees 35 minutes 56 seconds West, 139.85 feet and South 00 degrees 36 minutes 30 seconds West, 60.48 feet to the "Map of Parkside Hills, Section No. 2";

THENCE generally westerly along said Map of Parkside Hills Section 2, as well as along the "Map of Parkside Hills, Section No. 3", the following four (4) courses and distances:

1. South 73 degrees 07 minutes 30 seconds West, 359.36 feet;
2. North 87 degrees 43 minutes 45 seconds West, 127.97 feet;
3. North 65 degrees 47 minutes 20 seconds West, 162.96 feet;
4. North 86 degrees 33 minutes 40 seconds West, 200.26 feet to the easterly side of Iceland Drive;

THENCE generally northerly along the easterly side of Iceland Drive, the following two (2) courses and distances:

1. North 04 degrees 10 minutes 50 seconds East, 151.88 feet;
2. North 26 degrees 36 minutes 40 seconds West, 112.00 feet, to the point or place of BEGINNING.

